

**Remarks**

**STATEMENT OF THE SUBSTANCE OF THE INTERVIEW**

The applicant wishes to thank the Examiner for the telephone interview. In the interview, claims 1 and 11 were discussed in relation to the prior art of record. In particular, Sinn was discussed in relation to claims 1 and 11, and the §112 rejection was discussed in relation to the applicant having to add means to rotate and means to pivot into certain claims. Agreement was reached with regard to the prior art rejections or §112 rejections.

**STATUS OF THE CLAIMS**

Claims 1-16 and 18-22 remain in the case. Of the claims, 1, 3, 11, and 20 are independent, the rest being dependent. Claim 3 has been amended to independent form. All the claims have been amended in the preamble to recite a conveyor system. The applicant asserts that this amendment is not entered for patentability reasons, does not narrow the claims, and is merely entered to make the claims read better.

**35 U.S.C. §112 REJECTION OF CLAIMS**

The Examiner has rejected claims 1-6, 9-11, and 15-22 under §112, second paragraph as being incomplete for failing. With regard to claims 2-6, 15-16, and 20-22, the §112 rejection was the sole reason for rejection. The applicant traverses this rejection for at least the following reasons.

The Examiner is asserting that essential elements are missing from the claims. MPEP §2172.01 states that “a claim which fails to interrelate essential elements of the invention as defined by applicant(s) in the specification may be rejected under 35 U.S.C. 112, second

paragraph,...” In the present case, the applicant has not stated as essential any particular means for pivoting or means for extending the platform. Moreover, the exact means for extending or pivoting is not critical. Hydraulic actuation has been disclosed as the preferred embodiment, but the actuation could also be manually actuated, passively actuated, or actuated by any of a plurality of other means. As such, the applicant respectfully requests withdrawal of the 112 rejections.

### **35 U.S.C. §102(b) REJECTION OF CLAIMS**

Claims 1 and 7-10 stand rejected under 35 U.S.C. 102(b) as being anticipated by Franzen or Marks or Girardi ‘299 or Girardi ‘404 or Brunelle. As understood, each of these patents disclose a fruit picking apparatus having a perch, carriage, or the like.

Claim 1 has been amended to require the platform to be adjustably mounted from a first position completely beneath the boom and pivotable from the boom. As understood, none of the cited prior art devices disclose such a platform. Each of the cited patents comprises a bucket or perch that is merely attached to an end of a boom structure. As such, the applicant respectfully asserts that claims 1 and 7-10 are allowable for at least this reason.

### **35 U.S.C. §103 REJECTION OF CLAIMS**

Claim 11-14, 18 and 19 stand rejected under 35 U.S.C. §103 as being unpatentable over Sinn et al, and alternatively over Sinn et al. in view of Ulinski.

Claim 11 has been amended to require that the platform is at least partially extendible beyond the second end of the boom “and retractable to a position wholly between the first end of the boom and the second end of the boom.” As understood, neither Sinn nor Ulinski teach such a platform member. The alleged “platform” 38 of Sinn is attached to the side of the boom, and is

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not capable of being extended beyond the end of the platform and retracted to a position between the ends of the boom. As understood, neither Sinn nor Ulinski teach or suggest such a platform. As such, the applicant respectfully asserts that claims 11-14, 18, and 19 are allowable for at least this reason.

### SUMMARY

The applicant asserts that each of the claims are allowable over the art of record, and therefore requests a timely Notice of Allowance be issued.

Respectfully submitted,

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**Amendments to the Drawings**

**Explanation of Changes Made**

The attached sheets of drawings include new FIG. 5b, renumbered FIG. 5a (from FIG. 5), and replacement sheets for FIGS. 4, 6, and 7.

Below is a chart summarizing the Figure additions and deletions relative to the drawings as filed, and the accompanying Figure number changes. In sum, one new drawing, FIG. 5b is submitted, and replacement drawings for FIGS. 4, 5, 6, and 7 are submitted. No substantive changes are intended, except that FIG. 5 is now renumbered as FIG. 5a and the new figure is FIG. 5b.

<b><u>FIGURE NUMBER</u></b>	<b><u>CHANGE</u></b>	<b><u>NEW FIGURE SUBMITTED?</u></b>
1	NO CHANGE	NO
2	NO CHANGE	NO
3	NO CHANGE	NO
4	Replacement sheet only, no substantive changes	YES
5	Elimination of Background, Figure Number Changed to 5a, line drawing submitted to replace photo	YES, as 5a
N/A	New Drawing	YES, as 5b
6	Elimination of Background only, no substantive changes, line drawing submitted to replace photo	YES
7	No substantive changes; line drawing submitted to replace photo	YES